UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

SUGGESTED UNIFORM STATE SEED LAW

Washington, D. C.
September 1940

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Uniform seed legislation is desirable because of the difficulties of merchandising seed and of seed law enforcement under a large number of laws having varying requirements. The lack of uniformity in Federal and State seed legislation tends to create confusion and uncertainty in the administration and observance of seed laws and regulations. The Uniform State Seed Law of 1917 did much to promote uniformity but considerable variation still exists in State seed laws. The Federal Seed Act, approved August 9, 1939, has emphasized the need for more uniform State seed legislation to conform to that Act.

The National Association of Commissioners, Secretaries and Directors of Agriculture recognized the situation and at their annual meeting in December, 1939, passed a resolution requesting the agency administering the Federal Seed Act to prepare a suggested uniform State seed law to submit to the States and at the same time suggested that the States enact uniform seed legislation in their respective States.

In the preparation of this Suggested Uniform State Seed Law the Agricultural Marketing Service has had the wholehearted cooperation of the various associations interested in the subject as expressed through their seed and legislative committees. Obviously not everything desired by each group could be included, but we believe that the attached suggestion represents the best thought on the subject and is practical in its requirements.

This suggested law contains the best features of many State laws, most of which have been in effect for from 10 to 20 years. In preparing it to meet the needs of the industry and of enforcement procedure it has not been practicable to make a detailed study of the constitutions and statutes of the several States to consider possible questions of constitutionality in all the States. This must, therefore, be left to the determination of each State which is considering remodeling its seed law in conformity with the Suggested Uniform State Seed Law.

Appended to the draft of the suggested law is an explanation of certain features that might not otherwise be apparent.

Chief.

SUGGESTED UNIFORM STATE SEED LAW

Title

AN ACT TO REGULATE THE LABELING, SALE, AND OFFERING OR EXPOSING FOR SALE, OF AGRICULTURAL AND VEGETABLE SEEDS; TO PREVENT MISREPRESENTATION THEREOF; TO REPEAL ALL LAWS IN CONFLICT WITH THIS ACT; AND FOR OTHER PURPOSES.

(Note: Title and enactment clause should be worded in accordance with the requirements of the State.)

This Act shall be cited as "The (Name of State) Seed Law."

Definitions

Section 1. When used in this Act--

(a) The term "person" shall include a partnership, corporation, company, society, or association.

(b) The term "agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds.

(c) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

(d) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this State, and shall include noxious-weed seeds.

(e) Noxious-weed seeds shall be divided into two classes, "primary noxious-weed seeds" and "secondary noxious-weed seeds" which are defined in (1) and (2) of this subsection: Provided, That the (State seed law enforcement officer) may add to or subtract from the list of seeds included

under either definition whenever he finds, after public hearing, that such additions or subtractions are within the respective definitions.

(1) "Primary noxious-weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this State by ordinary good cultural practice.

"Primary noxious-weed seeds" in this State are the seeds of _____.

(2) "Secondary noxious-weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this State, but can be controlled by good cultural practice.

"Secondary noxious-weed seeds" in this State are the seeds of _____.

Note 1. - The charts and maps covering certain noxious weeds prepared by the Bureau of Plant Industry of the United States Department of Agriculture will be found useful in the determination of primary and secondary noxious-weed seeds.

(f) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(g) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

Note 2. - Additional terms might well be defined in this Act or in the rules and regulations thereunder. Confusion would be avoided and greater uniformity of interpretation obtained if such definitions and the use of such terms were in accord with the Federal Seed Act.

Label Requirements

Section 2. Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale, within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For agricultural seeds -

(1) Commonly accepted name of (a) kind, or (b) kind and variety, or (c) kind and type, of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(2) Lot number or other lot identification.

(3) Origin, if known, of alfalfa, red clover, and field corn (except hybrid corn). If the origin is unknown, that fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and approximate number of each kind of secondary noxious-weed seed, per ounce in groups (A) and (B) and per pound in groups (C) and (D), when present singly or collectively in excess of -

(A) One seed or bulblet in each 5 grams of Agrostis spp., Poa spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike and white clover, reed canary grass, Dallis grass, and other agricultural seeds of similar size and weight, or mixtures within this group;

(B) One seed or bulblet in each 10 grams of ryegrass, meadow fescue, foxtail millet, alfalfa, red clover, sweetclovers, lespedezas, smooth brome, crimson clover, Brassica spp., flax, Agropyron spp., and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (A);

(C) One seed or bulblet in each 25 grams of proso, Sudan grass and other agricultural seeds of similar size and weight, or mixtures not specified in (A), (B), or (D);

(D) One seed or bulblet in each 100 grams of wheat, oats, rye, barley, buckwheat, sorghums (except Sudan grass), vetches, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

All determinations of noxious-weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(6) Percentage by weight of agricultural seeds other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State.

(b) For vegetable seeds -

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the (State seed law enforcement officer) under this Act.

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine such percentages;

(D) The words "Below Standard" in not less than 8-point type; and

(3) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this State.

Prohibitions

Section 3. (a) It shall be unlawful for any person to sell, offer for sale, or expose for sale any agricultural or vegetable seed within this State-

(1) Unless the test to determine the percentage of germination required by section 2, shall have been completed within a 9-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.

(2) Not labeled in accordance with the provisions of this Act, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Containing primary noxious-weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(b) It shall be unlawful for any person within this State -

(1) To detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed, in a manner that may defeat the purposes of this Act.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this Act.

(4) To fail to comply with a "stop sale" order.

Exemptions

Section 4. (a) The provisions of sections 2 and 3 do not apply -

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing: Provided, That any labeling or other representation which may be made with respect to the unclean seed shall be subject to this Act.

(b) No person shall be subject to the penalties of this Act, for having sold, offered or exposed for sale in this State any agricultural or vegetable seeds, which were incorrectly labeled or represented as to kind, variety, type, or origin which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin, if required, and to take such other precautions as may be necessary to insure the identity to be that stated.

Duties and Authority of (State seed law enforcement officer)

Section 5. (a) The duty of enforcing this Act and carrying out its provisions and requirements shall be vested in the (State seed law enforcement officer). It shall be the duty of such officer, who may act through his authorized agents,:-

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, offered or exposed for sale within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of this Act, and to notify promptly the person who transported, sold, offered or exposed the seed for sale, of any violation.

(2) To prescribe, and after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, tests and examination of agricultural and vegetable seed, and the tolerances to be followed in the administration of this Act, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this Act.

(b) Further, for the purpose of carrying out the provisions of this Act the (State seed law enforcement officer) individually or through his authorized agents, is authorized:-

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to the Act and the rules and regulations thereunder.

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the (State seed law enforcement officer) finds is in violation of any of the provisions of this Act which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with: Provided, That no "stop-sale" order shall be issued or attached to any lot of seed without first giving the owner or custodian of such seed an opportunity to comply with the law or to withdraw the seed from sale: Provided further, That in respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court: And provided further, That the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this Act.

(3) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and to fix and collect charges for the tests made. (Fees to be accounted for in such manner as the State legislature may prescribe.)

(5) To cooperate with the United States Department of Agriculture in seed law enforcement.

Seizure

Section 6. Any lot of agricultural or vegetable seed not in compliance with the provisions of this Act shall be subject to seizure on complaint of the (State seed law enforcement officer) to a court of competent jurisdiction in the area in which the seed is located. In the event that the court finds the seed to be in such violation of the Act and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this State: Provided, That in no instance shall such disposition of said seed be ordered by the court without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with the Act.

Violations and Prosecutions

Section 7. Every violation of the provisions of this Act shall be deemed a misdemeanor punishable by a fine not exceeding one hundred dollars for the first offense and not exceeding two hundred and fifty dollars for each subsequent similar offense.

When the (State seed law enforcement officer) shall find that any person has violated any of the provisions of this Act, he or his duly authorized agent or agents may institute proceedings in the court of competent jurisdiction in the area in which the violation occurred, to have such person convicted therefor; or the (State seed law enforcement officer) may file with the (chief prosecuting officer of the State) with the view of prosecution such evidence as may be deemed necessary: Provided, however, That no prosecution

under this Act shall be instituted without first having given the defendant an opportunity to appear before the (State seed law enforcement officer) or his duly authorized agent to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the (State seed law enforcement officer) is of the opinion that the evidence warrants prosecution, he shall proceed as herein provided.

It shall be the duty of the (prosecuting officer in the local tribunal) or the (chief prosecuting officer of the State), as the case may be, to institute proceedings at once against the person charged with such violation, if, in his judgment, the information submitted warrants such action.

After judgment by the court in any case arising under this Act, the (State seed law enforcement officer) shall publish any information pertinent to the issuance of the judgment by the court in such media as he may designate from time to time.

Miscellaneous

Section 8. (Each State should make its provisions for appropriations and expenditures of funds according to local requirements.)

Section 9. Chapter . . . . . .of the laws of . . . . . .and any other laws or parts of laws in conflict with this Act, are hereby repealed.

Section 10. This Act shall be effective on and after . . . . . .
. . . . . .

COMMENTS ON SUGGESTED UNIFORM STATE SEED LAW

Since the Federal Seed Act was approved on August 9, 1939 much thought has been given to the need for more uniform State seed legislation in general conformity with the new Federal statute. The Federal law applies only to shipments in interstate commerce and to imports.

The first Federal seed legislation of any consequence was a provision in the Act making Appropriations for the United States Department of Agriculture for the fiscal year 1905, which provided for testing grass, clover, and alfalfa seeds collected in the open market and for publishing the results of such tests when seeds were found to be adulterated or misbranded. Thereafter that provision, either in the same or similar form, was incorporated by Congress in every annual Agricultural Appropriation Act up to and including 1940.

In 1912 the Seed Importation Act was passed. That Act provided for regulating foreign commerce by prohibiting admission into the United States of certain adulterated seeds unfit for seeding purposes. It was the forerunner of the present Federal Seed Act. In 1916 the Seed Importation Act, which prior to that time had covered only purity and weed-seed content of imported seed, was amended to control germination of imports. In 1926 it was further amended to provide for the staining of alfalfa and red clover seed and to prohibit the transportation or sale in interstate commerce of misbranded seeds. At that time the title was changed to the Federal Seed Act. No further Federal seed legislation was enacted until the Federal Seed Act of 1939 was passed.

The year 1909 marks the effective beginning of comprehensive State agricultural seed legislation. In that year 8 States passed agricultural seed laws. Prior to that time 12 States had enacted laws regulating the sale of seeds, beginning with Connecticut in 1821, but only 2 of them - Maine in 1897 and Iowa in 1907 - could be considered as agricultural seed laws. Today every State except Georgia has an agricultural seed law and that State is now giving consideration to such legislation.

NEED FOR UNIFORM LAW

In the absence of comprehensive Federal seed legislation and with the increasing number of States passing agricultural seed laws, the need for greater uniformity in State seed legislation soon became apparent. In 1917 the Association of Official Seed Analysts, the American Seed Trade Association, and the Wholesale Grass Seed Dealers' Association, following an extended period of discussion, adopted a Uniform State Seed Law and recommended that the States adopt it or use it as a basis for seed legislation. It was amended in 1920, 1921, and 1927.

This uniform law served as a basis for many of the present State seed laws and for the development of the Federal Seed Act of 1939, the labeling provisions of which are generally comparable with those of the uniform law. At

the time of the adoption of the uniform law by the associations in 1917 there were 27 State seed laws. By 1929 there were 46 State laws, many of which were patterned after the uniform law. In 1939 Florida passed a seed law which left Georgia the only State without seed legislation.

Few States adopted the Uniform State Seed Law of 1917 as a whole. But the important features of that law were adopted by a number of States so it may be considered that that law has exerted an important influence upon State seed legislation as to its form and methods of seed control even though the wording of such State laws may not always have shown such influence.

Lack of uniformity in Federal and State seed legislation tends to obstruct seed merchandising, to disrupt the administration of progressive agricultural programs, to erect barriers to interstate commerce in seeds, and to create confusion in the administration of seed laws and regulations.

It should not be difficult to bring about uniformity in all those features that are common to both Federal and State legislation. Absolute uniformity should not be expected in the designation of noxious-weed seeds but if the definition as to characteristics of noxious-weed seeds, conformity to a geographical system of determination, and the method of stating or regulating their presence are substantially uniform the difficulties in connection with seed merchandising and the administration of seed-control measures in connection with noxious-weed seeds will be minimized.

Those features of State seed laws which are not comparable with the Federal Seed Act present greater problems. At the present time State seed laws include many features that are entirely in opposition to the principles of approach to seed legislation as exemplified in the Federal Seed Act. It is desirable that each State study its seed law to see whether it includes features that unnecessarily obstruct legitimate seed merchandising, tend to create interstate barriers, or present difficulties of administration with particular reference to those features foreign to the Federal Seed Act.

SCOPE OF SEED LEGISLATION

The field of State seed legislation differs somewhat from that of Federal seed legislation. The latter comprises largely control of seed imported into the United States and of seed transported or delivered for transportation in interstate commerce; the former is concerned largely with the sale, offering for sale, and exposure for sale of seed in dealers' establishments within the State.

A study of both State and Federal seed legislation today reveals the following purposes: (a) To provide for accurate labeling of seed in commerce, (b) to prevent the introduction of noxious weeds onto farms or into localities where they may become a menace to agriculture, (c) to establish reasonable standards of germination and purity, (d) to provide for the maintenance and inspection of records of seed handled and for laboratory tests and operations, (e) to provide for certification of superior seeds, (f) to provide for truth in advertising, (g) to regulate the use of a disclaimer or nonwarranty, (h) to provide for waiving certain provisions of the law or regulations under certain conditions, and (i) to provide suitable penalties for violations.

The Uniform State Seed Law of 1917 covered only agricultural seeds. In 1937 the Association of Official Seed Analysts, after extended consultation with the legislative committee of the American Seed Trade Association, adopted a Uniform State Vegetable Seed Law. The Federal Seed Act includes both agricultural and vegetable seeds and covers these together under comparable requirements in every respect except labeling.

Because practically all of the requirements as to the administration of a State seed law, except labeling, are the same for both agricultural and vegetable seeds, it seems desirable not to separate the two classes of seeds especially as the Federal Seed Act handles them together. It would not promote uniformity to have separate laws. There would always be the possibility of having provisions in one law which were not included in the other. This would cause confusion in interpretation and enforcement.

The Uniform State Seed Law of 1917 neither in its title nor its terms covered transportation. It was restricted to regulating the "selling, offering, or exposing for sale of agricultural seeds." The Federal Seed Act of 1939 regulates "interstate and foreign commerce in seeds" and, therefore, has more to do with the transportation of seed than with local sales or the offering or exposing for sale of such seed. It is suggested that State seed legislation take the form of regulating the labeling, sale, and offering, or exposing for sale of agricultural and vegetable seeds.

In drafting the Suggested Uniform State Seed Law four guiding principles have been followed: (1) simplicity of treatment, (2) conformity with the Federal Seed Act of 1939 and so far as practical with the Uniform State Seed Law of 1917, as amended, (3) setting up of noxious-weed seed requirements developed as a result of field investigations and experience in operation under present State seed laws, and (4) facilitation of the free movement of seeds suitable for sowing purposes in both intrastate and interstate commerce.

In the handling of each feature consideration has been given to the various methods of treatment in present State laws, in the Uniform State Seed Law of 1917, and in the Federal Seed Act, in order not only to arrive at uniformity but also to suggest legislation that would come nearest to meeting all the desirable requirements of a State seed law. Some of the particular features considered are the following:

DEFINITIONS

It is proposed that only a few definitions be given. Others could be included but they might better be covered by rules and regulations. It is suggested also that confusion would be avoided and greater uniformity of interpretation obtained if all such definitions were in accord with the Federal Seed Act. Much confusion would be brought about if there were numerous terms used in State laws which were defined in conflict with the Federal Seed Act, because they would have to be interpreted in many cases by the same officials and applied to the same lots of seed.

Agricultural and vegetable seeds. - Several definitions for "agricultural seeds" and "vegetable seeds" have been used but after careful consideration

it is believed that the ones included in the Suggested Uniform State Seed Law have the advantage of simplicity and are still adequate for all purposes. The lists of both agricultural and vegetable seeds included in the regulations under the Federal Seed Act will always stand as a guide.

Noxious-weed seeds. - Noxious-weed seeds come up for important consideration in three places: (1) the definitions, (2) labeling requirements, and (3) prohibitions.

Under "definitions" it is suggested that noxious-weed seeds be segregated into two categories, namely, "primary noxious-weed seeds" and "secondary noxious-weed seeds." Each State will include in each of these categories those weed seeds that meet the requirements of the respective definitions. The classification into primary and secondary noxious-weed seeds is based largely upon the annual or perennial character of the plant, its method of propagation, and the difficulty of control under ordinary good cultural practice.

As a guide to geographical distribution, the Bureau of Plant Industry of the U. S. Department of Agriculture has prepared charts and maps showing the zones of distribution of primary noxious weeds and of certain secondary noxious weeds. If these suggestions are followed in general by the States the handling of the noxious-weed seed problem should be facilitated. Each State should give careful consideration to the noxious-weed seed problem in the State before including any particular noxious-weed seed in either group. Provision has been made for adding to or for subtracting from the list.

In deciding to segregate noxious-weed seeds into "primary noxious-weed seeds" and "secondary noxious-weed seeds" consideration was given to the many arguments pro and con, such as the possible danger of too long lists if there were more than one group, or failure properly to classify as to noxious character of seed in one group.

Labeling and advertisement. - The definitions for "labeling" and "advertisement," especially in regard to their connection with false and misleading labeling and advertising, are so important that it seems desirable to incorporate them in State laws in order that their meaning will be identical under both Federal and State enforcement.

LABELING REQUIREMENTS FOR AGRICULTURAL SEEDS

Single kinds or mixtures. - Most of the State seed laws set up labeling requirements for agricultural seed separately for single kinds or varieties, and mixtures of two or more kinds or varieties. Forty-two States have separate labeling requirements for mixtures and 21 of these States have requirements for special mixtures in addition to regular mixtures. The provision for both regular and special mixtures is in accord with the Uniform State Seed Law of 1917.

Of the 42 States making special provision for mixtures, 34 provide that they should be labeled as "mixtures," or "mixed seeds," which provision is also incorporated in the Uniform State Seed Law of 1917. The 19 States which do not

conform to the provisions of the uniform law in setting up requirements for mixtures provide generally for approximately the same requirements for mixtures as for single kinds or varieties.

The Federal Seed Act covers the labeling requirements for both single kinds or varieties and mixtures of two or more kinds or varieties under one general classification, which appears to simplify matters because most of the labeling requirements are the same for both. The Suggested Uniform State Seed Law follows the Federal Seed Act in this respect.

Sixe of package. - The minimum size of the package or the quantity of seed to which the labeling provisions apply varies considerably. Thirteen States set the minimum limit to which the labeling provisions apply at 1 pound, 4 States at 5 pounds, 10 States at 10 pounds, 1 State at 1/2 bushel, and 19 States set no limit but make the provision applicable to every lot or to every container of seed. The Uniform State Seed Law of 1917 provides that the label requirements shall apply to "every lot of agricultural seeds," and the Federal Seed Act to "any agricultural seed or any mixtures of agricultural seeds for seeding purposes."

The provisions of the Federal Seed Act recognize that if the seeds are shipped for "seeding purposes," it is important to know the facts that are required to be stated on the label. Samples of seed sent solely for laboratory testing or for examination as to quality would be exempted because they are not transmitted "for seeding purposes." So long as the Federal Seed Act includes this blanket provision, all seeds moving in interstate commerce must comply with it and, therefore, will bear all the information necessary for a retail merchant to give in connection with the sale of any small quantity of seed. The Suggested Uniform State Seed Law, therefore, is drawn up to conform to the Federal Seed Act.

Name of seed. - Of the 47 States having State seed laws more than three-fourths provide for expressing the name of the seed as the "commonly accepted name," which is in accord with the Uniform State Seed Law of 1917. The Federal Seed Act provides for "the name of (a) kind, (b) kind and variety, or (c) kind and type." In State laws it would be desirable to be more specific and use the same provision that is in the Federal Seed Act because the term "commonly accepted name" has been construed in so many ways by the different States as to be very confusing. Ten States include in their laws provision for labeling agricultural seed as to kind and variety. This provision as an absolute requirement is impractical when applied to certain agricultural seeds. The larger part of such seeds as alfalfa, Kentucky bluegrass, redtop, and red and alsike clover are not known or handled by variety name and it would be impossible to meet this requirement and market these seeds in compliance with a provision of that kind.

Lot number or other lot identification. - Only four States make any provision for numbering or otherwise identifying lots. Such identification was not required by the Uniform State Seed Law of 1917 but is required in the Federal Seed Act under a provision that "lot number or other identification" shall be given.

Because of methods used today as to identification of lots of seed received, handled, or prepared for sale and because of the necessity of using

records as a basis for identifying seed in various stages of testing, in business operations, and in channels of commerce it is desirable that complete identification be given as defined and provided under the Federal Seed Act and as recommended in the suggested uniform law.

Origin. - Origin defined as "place where grown" is required for all agricultural seeds in 26 State seed laws. Fourteen States make no provision for origin whereas seven require origin for a few selected kinds of seeds, and five States require that both the State and County of origin be given for seed field corn.

A general requirement for stating origin on all kinds of seeds is undesirable because there are many kinds of seeds for which origin is considered relatively unimportant. If origin is to be stated at all it should be stated correctly. To do this requires complete records and special provision for handling and blending seeds by origin. Where it is relatively unimportant, it seems undesirable to make necessary this extra expense and effort which must add to the cost of each lot of seed sold.

The Uniform State Seed Law of 1917 made no provision for statements of origin. The regulations under the Federal Seed Act and the suggested new uniform law provide that origin shall be stated on the label for alfalfa, red clover, and field corn, except hybrid seed corn. Wherever these crops are important in States, the origin should be required for them in the laws of such States. In certain States because of local conditions it may seem desirable to include certain other crops in addition but if this is done the number should be limited to those few in which origin is really important when considered separately from variety.

Weed seeds. - The percentage of total weed seeds is required to be stated in 36 State seed laws. Six States require statements of number of weed seeds per pound. The remaining five States make no provision for statements of weed seeds. In seven States there is a limit to the percentage of weed seeds that may be present. That limit is set by one State at 1/2 percent, by one at 1 percent, by two at 2 percent, and by three at 3 percent.

The Uniform State Seed Law of 1917, the Federal Seed Act, and the suggested uniform law provide for stating the approximate total percentage by weight of weed seeds including noxious-weed seeds but set no limit on the percentage which may be present.

Noxious-weed seeds. - Noxious-weed seed labeling provisions are extremely variable in the different States. A list of noxious weeds is given in 37 State seed laws. In three of these laws they are classified according to the degree in which they are noxious. In 33 States the name and number of noxious-weed seeds per unit of quantity are required to be stated, 14 of which require the number of noxious-weed seeds per pound, 14 per ounce, 2 either per ounce or per pound, and 3 indicate no specific quantity. In 24 States the method of classifying the various kinds of agricultural seed and the quantity of each to be used as a basis for stating the name and approximate number of each kind of noxious-weed seed or bulblet is in accordance with the classification given in the Uniform State Seed Law of 1917. In 12 of these 24 States the number is

required to be stated as number per ounce in accordance with the Uniform State Seed Law of 1917. Five of the remaining 24 States indicate that the number per pound shall be stated, whereas the remaining 7 of the 24 require the name only.

The Federal Seed Act provides for giving the kinds of noxious-weed seeds and the rate of occurrence of each in accordance with the law and regulations of the State into which the seed is transported. Because of this it is highly desirable that the State laws be as uniform as possible in their requirements as to noxious-weed seeds.

Noxious-weed seeds are the bugaboo of the farmer, the seedsman and the seed enforcement officer. There is no other labeling factor which has a greater influence on movement of seeds in interstate commerce than that of noxious-weed seed content. The list of noxious weeds, the method of measurement of noxious-weed seed content, and the methods of stating prohibitions or restrictions are far from uniform in State laws.

The Suggested Uniform State Seed Law provides for giving the name and number per ounce or per pound of secondary noxious-weed seeds on the label when in excess of 1 to 5, 1 to 10, 1 to 25 or 1 to 100 grams, depending on which one of four classes of agricultural seeds is being labeled. This is very similar to the method used in the Uniform Seed Law of 1917 for all noxious-weed seeds. It includes provisions also for the labeling of noxious-weed seeds in mixtures of agricultural seeds which were covered separately in the old uniform law. The primary noxious-weed seeds would not be named in labeling as they would be prohibited subject to tolerances.

Various arguments have been presented by associations and individuals as to the use of the ounce or pound unit in stating the quantity of noxious-weed seeds present in a given lot of seed. Some of the arguments for each of these methods are:

The ounce unit is favored because of the larger number of smaller kinds of seed that are handled in a commercial way such as the grasses, clovers, and other forage seeds. These are mostly the kinds in which the quantity to be examined for noxious-weed seed content is usually less than an ounce or not more than 50 grams, which is less than 2 ounces. Recognizing the variations in the number of noxious-weed seeds found in representative samples taken from the same lot, even with the best methods of bulking and sampling, it would be desirable to state the number of weed seeds found in as nearly as possible the unit of quantity that is used in the examination of such seed for the presence of noxious-weed seed. If one were to examine a 25-gram (approximately 1 ounce) sample of seed the range of tolerance or error, if the number were stated as per pound, would be magnified 18 times, whereas if the statement were made on the ounce basis, any error or variation within the tolerance would be minimized.

The arguments raised for the pound unit are that farmers usually buy seeds by the pound and not by the ounce and think more readily in terms of pounds than they do in terms of ounces. The argument is also made that in some cases from 100 to 500 grams of seed may have to be examined for noxious-weed

seed content and if one seed only were found in 500 grams it would be necessary to express the quantity of a small fraction of a seed per ounce.

Inasmuch as the quantity required by the rules and regulations under the Federal Seed Act to be examined for the presence of noxious-weed seeds varies from 25 grams to 500 grams depending largely upon the size and weight of the seed examined, a compromise is suggested which would meet certain arguments for both units. The suggestion is that the approximate number of secondary noxious-weed seeds per ounce be given for groups (A) and (B), which include grasses and clovers, or the small-seed groups and the approximate number per pound be given for groups (C) and (D), which include the seeds of cereals, sorghums, vetches, etc. or the larger-seed groups. This grouping seems more logical than using the same unit for all seeds inasmuch as in groups (A) and (B) the quantity to be examined for noxious-weed seeds is from 25 to 50 grams and in (C) and (D) it is from 150 to 500 grams; the number of seeds per pound in (A) and (B) except for the very small seeded species of Agrostis and Poa ranges mostly from 6,000 to 90,000 and in (C) and (D) from 500 to 5,000; and the quantity sown per acre in (A) and (B) is mostly from 8 to 20 pounds and in (C) and (D) mostly from 25 to 90 pounds.

Purity. - All of the State seed laws except two, in accord with the Uniform State Seed Law of 1917, require a statement of "purity" or "pure seed" meaning the freedom of such seeds from inert matter, weed seeds, and other crop seeds (not including varietal or biological purity inherent in the seed which cannot be determined by mechanical methods). In providing for this statement of purity in State laws no mention is made in most cases of requirements for separate statements of inert matter and other crop seed present. Only 12 States include inert matter in their requirements and only 8 States a statement of other crop seed.

The Federal Seed Act provides for statements of the percentage of pure seed of each named kind, variety, or type and of percentages by weight of other agricultural seeds (other crop seeds), weed seeds, and inert matter. This is a somewhat different method of stating the pure-seed content from that used in present State laws but is equally or more explicit and makes unnecessary a separate purity statement.

In connection with the statements required under purity, it is entirely pertinent to give consideration to the fact that it is far more important to know what the impurities are than the total purity percentage. Most cleaned seeds contain a relatively small percentage of impurities. Therefore, the relationship of the quantity of such impurities to the total as affecting the value of the seed is relatively unimportant. It is important, however, to know whether these impurities are made up of weed seeds, other crop seeds, or inert matter and whether the weed seeds are those ever present with the crop seed and relatively unobjectionable, or whether they are unusual or noxious, particularly as a menace to the kind of crop with which they are associated.

Germination and hard seed. - All the State seed laws provide for a statement of percentage of germination and all but two require also a statement of the month and year of test. The germination and hard-seed content, where hard seeds are present, are required to be stated separately by 19 of the States.

Twenty-eight States make no reference to statements of hard seeds. Of the 19 States that require separate statements 8 provide also for expressing the sum of germination and hard seeds either as live seed, probable live seed, total live seed, total of germination and hard seed, or as total germination including hard seed.

The Uniform State Seed Law of 1917 provides for the approximate percentage of germination, together with the month and year that the test was made. The Federal Seed Act and the Suggested Uniform State Seed Law provide for a statement of the percentage of germination exclusive of hard seed, the percentage of hard seed if present, and the calendar month and year that the test was completed. The Suggested Uniform Law also provides that the germination and hard seed may be totaled and stated as "total germination and hard seed."

Period in which germination test may be used. - Seven States make some provision either for the period of time in which the germination test may be used in labeling after such test is made or for the time that a retail dealer may use a wholesaler's label after receiving seed with such label attached. The Uniform State Seed Law of 1917 makes no reference to this period of time. The Federal Seed Act provides that the test to determine the percentage of germination shall have been completed within a 5-month period exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce. It is desirable that some maximum limit be set for the time during which the test for germination may be used in labeling.

In the Suggested Uniform State Seed Law, it is proposed that the 5-month period provided under the Federal Seed Act be extended to 9 months. This is to cover in addition to the time in which the seeds may be shipped in interstate commerce the time that is needed for them to remain on sale in retail dealers' establishments or otherwise. In connection with the sale of vegetable seeds in packets a longer period may seem desirable but it is believed that it would be unsafe to extend this period beyond 9 months.

Year grown.- Four States provide for a statement of the year in which the seed was grown. This is not covered in the Uniform State Seed Law of 1917 or in the Federal Seed Act. Ordinarily this cannot be determined accurately so should not be included in any seed law unless it is very important with particular kinds of seed and unless some provision is made for the records necessary on which to base a statement of this kind.

Name of dealer or vendor. - The name of dealer, vendor, or person responsible for the labeling of seed is required in every State but one. In practically all cases the State law reads: "Name and address of vendor." In two States the name and address of the person responsible for the label is required in addition to the name of the vendor and in one State this only is required.

The Uniform State Seed Law requires the "full name and address of the vendor." The Federal Seed Act provides for

> "(9) Name and address of (a) the person who transports, or delivers for transportation, said seed in interstate commerce, or (b) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;"

This matter has had careful consideration because of the importance of indicating the proper person on the label in order to facilitate enforcement. The Suggested Uniform State Seed Law provides for the "Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State."

LABELING REQUIREMENTS FOR VEGETABLE SEEDS

There are direct provisions covering vegetable seeds in 27 State seed laws. Seven State laws include only certain groups of vegetable seeds as (1) sugar beets and mangels, (2) canning-house peas, (3) peas and beans, along with agricultural seeds, (4) onion and spinach, (5) vine seeds, or (6) beets, mangels, turnips, and rutabagas. Thirteen States make no reference to the labeling of vegetable seeds.

In 13 States the law states that vegetable seeds shall be labeled in the same way as agricultural seeds with the same limitations, if any, as to the size of package. Of the 34 States that require labeling of either all or a selected few kinds, 12 States require labeling of every lot or every container, 6 States of 1-pound lots or over, 4 of 5-pound lots or over and 3 of 10 pounds or over. The name and address of the vendor are required in all cases.

Since most packeted vegetable seeds are (1) sold from so-called commission boxes over all the United States, (2) produced in special localities, (3) packeted mostly by a relatively small number of dealers, and (4) shipped to a large number of retail dealers over the entire country, it is very desirable that a uniform practice should be observed with reference to the provision for labeling vegetable seeds in all the States. Lack of uniformity adds to the difficulty and expense of labeling and merchandising such seeds. Some States require germination test on all packets whereas others require no germination test.

In certain States some crops ordinarily classed as vegetables are, because of their large-scale production, classed as field crops. This makes necessary certain labeling requirements that are not in conformity with those ordinarily required of vegetable seeds. It would be better to make a separate classification of such seeds apart from agricultural seeds in all cases.

The Uniform State Vegetable Seed Bill approved by the Association of Official Seed Analysts in 1937 sets up a definition, labeling requirements, and certain exemptions for vegetable seeds similar to those in the Federal Seed Act, except as to germination. It provides for a statement of germination

and date of test on all containers of eight ounces or more, which is not included in the Federal Seed Act, and on containers of less than eight ounces the statement "germination equal to or above Association of Official Seed Analysts" standard for _____ (year)," with the year inserted in each instance.

In the Suggested Uniform State Seed Law, in accord with the Federal Seed Act, provision is made for the labeling of vegetable seeds as to germination only when such seeds germinate below the standards set up under the regulations.

PROHIBITIONS

The prohibitionsincluded in the Suggested Uniform State Seed Law are mostly those included in the Federal Seed Act. In addition to the period of time following germination test which has been mentioned under label requirements the prohibitions taken from the Federal Seed Act are those covering false or misleading labeling and advertising, and alteration, destruction or defacement of labels.

This section also includes the prohibition against primary noxious-weed seeds, the hindrance to enforcement officers and failure to comply with "stop-sale" orders. One of the most far-reaching of these is the one thatmakes it unlawful to sell or offer for sale any agricultural seed containing any primary noxious-weed seeds, subject to tolerances.

Good reasons may be given for absolute prohibition of primary noxious-weed seeds because of their menace to agriculture. On the other hand, because of the unavoidable variations in sampling and testing, even under favorable conditions, and for other reasons, seeds cannot be distributed or merchandised in a practical way unless some degree of tolerance is provided to give reasonable protection to the person handling the seed. All these phases of the question have been given consideration in the Suggested Uniform State Seed Law and it is believed the method suggested is practical and gives a high degree of protection to the buyer.

EXEMPTIONS

Seventeen State seed laws provide exemptions for seed to be used for food or for feed or for cleaning similar to those included in the Uniform State Seed Law of 1917 and in the Federal Seed Act. Practically all such exemptions are also included in modified form in the Suggested Uniform State Seed Law.

HYBRID SEED CORN

Thirteen States include in their State laws or regulations provisions defining and governing the sale of hybrid seed corn whereas 33 States make no reference to hybrid seed corn. The regulations under the Federal Seed Act include a definition of hybrid seed corn but no other requirements are provided except that hybrid seed corn is exempted from labeling as to origin which is required of open-pollinated seed corn. In all States where hybrid seed corn is produced or handled the regulations under the State law should include a definition for hybrid seed corn in conformity with the Federal Seed Act.

ADMINISTRATION AND ENFORCEMENT

Enforcing agency. - The enforcement of the State seed law is located in the State Department or Board of Agriculture in 35 States. In three States it is placed with a State Seed Commissioner apparently separate from the Board. In six States the enforcement is associated with the College of Agriculture or Experiment Station, whereas in three States some special agency is named to enforce the law.

Duties and authority. - The State seed lawsthat follow the form of the Uniform Seed Law of 1917 in outlining duties and authority of enforcement officer usually provide (1) for the naming of the agency or person to enforce the law, (2) for authority to adopt rules and regulations, (3) for the maintenance of a seed laboratory, (4) for the examination and analysis of seeds coming within the scope of the law, (5) for free access to places of business, (6) for method of tagging and sealing of samples, (7) for notifying interested person of results of tests, if below statement on tag, and (8) for publishing results of examination and tests. Most of these are covered in some form in the Suggested Uniform State Seed Law.

Laboratory tests and fees. - In making provision for a State seed laboratory and its operation and equipment, most State seed laws provide for using the rules and recommendations for testing seeds "adopted and approved by the Association of Official Seed Analysts." Inasmuch as most of these have been adopted by the U. S. Department of Agriculture and in the main have been included in the rules and regulations under the Federal Seed Act, it would be desirable for any State law prepared hereafter to provide for such methods to be in accordance with the rules and regulations prescribed under the Federal Seed Act.

Warnings, "stop-sale" orders, and seizures. - Various methods are used by the States to provide for immediate handling of apparent or obvious violations of the State seed law. Some of these provide for issuing a written or printed warning that a particular lot or parcel of seed, as a result of laboratory test or based on other information, appears to be in violation of the State seed law and request that the law be complied with. Other States, either with or without warning, issue to the owner or custodian or attach to such lots of seed written or printed "stop-sale" orders which continue in effect or are required to remain attached to the parcels of seed until the law has been complied with or the seed legally disposed of.

Provisions are made in certain State laws for the seizure of lots of seed that are found to be in violation of the State seed law. Such seizures are made on the recommendation of the State seed law enforcement officer to a court of competent jurisdiction.

In the Suggested Uniform State Seed Law provision has been made both for "stop-sale" orders, which will be executed by the State seed law enforcement officer subject to appeal to a court of competent jurisdiction, and for seizures of seed, which will be handled by the court on recommendation of the State seed law enforcement officer that such seed is in violation of the law. The experience of some officers indicates that both methods are desirable for prompt and

effective seed law enforcement. If provision is made for "stop-sale" orders in a State seed law it would be well in the interest of uniformity for such provision to follow the text of the Suggested Uniform State Seed Law. (Section 5 (b) (2).) Failure to include such a provision, however, would not affect uniform compliance with the Federal Seed Act, or interfere with the objective sought by the suggested law, of uniform requirements in all States.

Licenses, permits, etc. - Some 15 States provide for a form of license, permit, or registration of seed dealers, sometimes also including regular seed producers but usually exempting the farmer who incidentally produces seeds. These special authorizations are usually required of those who sell seeds within the State boundaries whether or not their business is located within the State.

In 10 States a State license or permit is required for which the annual fee ranges from $1 to $25.00 for each person or persons. Five States provide for a quantity or parcel tax, in four of which this is handled by the sale of official tags at from 1 cent to 8 cents per tag which must be used on all seed sold within the State. A registration fee for each kind of seed sold is provided in the laws of two States. In each of these the fee is $5 for each kind or brand of seed.

Some of these licenses, permits, and registration fees are established solely for the production of revenue, whereas others combine revenue with certain protective features. Their effect in creating interstate barriers to free commerce between the States should be given careful consideration. Because of the variation in the methods used some of these devices have become in effect serious barriers to interstate commerce. It is thought that some of the results desired would be better accomplished by the adoption of a more uniform procedure, not only in the adoption of protective measures but also of those features intended solely for revenue production.

It may be said that all such matters are primarily of State concern. This is not wholly true because many of them have a serious effect upon the enforcement of the Federal Seed Act and are really an attempt to regulate interstate commerce in seeds.

Some of the State requirements apply equally to dealers handling seeds either within or outside of the State. Others, however, are somewhat discriminatory against out-of-State dealers shipping seeds into the State. Some practices such as requiring notice of shipment or of application for tags to be attached to a specific lot of seed after the test has been made, before the lot can be labeled and offered for sale, obstruct and retard the movement of seeds to such an extent as to make it desirable to accomplish the ends sought by some other means.

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